

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

CHRYSTI STEVENSON (DAY),)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-07-921-D
)	
MICHAEL J. ASTRUE, Commissioner,)	
Social Security Administration,)	
)	
Defendant.)	

ORDER

Before the Court is the Plaintiff's Motion for Attorney Fees Under the Equal Access to Justice Act ("EAJA") [Doc. No. 17]. As the prevailing party in this action seeking review of an adverse decision by Defendant, Plaintiff is entitled to a reasonable attorney fee under the provisions of EAJA where the position taken by the Defendant was not reasonably justified. 28 U. S. C. § 2412(d)(2)(H).

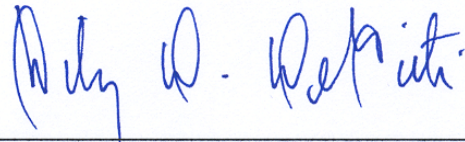
Although Plaintiff qualifies for an award of fees as the prevailing party in this action, her Motion must be denied because she fails to submit the required documentation evidencing the actual time expended on her behalf and the rate at which fees were computed. Although the Motion states that an itemized statement reflecting the actual time expended and the rate charged is attached to the Motion, no statement has been submitted. To recover fees under the provisions of EAJA, Plaintiff must include an itemized statement "stating the actual time expended and the rate at which fees and other expenses were computed." 28 U. S. C. § 2412(d)(1)(B).

The Court also notes that the proposed order submitted to the Court is labeled a "Stipulated Order," but it does not reflect the signature of Defendant's counsel. In fact, the Motion does not

indicate that Defendant agrees to the fee award or the amount of the award, and it contains no suggestion that Defendant has been consulted regarding the Motion. EAJA does not require a joint motion or a stipulated order; if the parties are stipulating to the relief requested, however, the Motion and proposed order must properly reflect that stipulation.

Accordingly, Plaintiff's Motion [Doc. No. 17] is DENIED without prejudice to the filing of a new motion supported by proper documentation and otherwise complying with the requirements of EAJA. If Plaintiff elects to file a new motion, she must do so within ten business days of the date of this Order.

IT IS SO ORDERED this 16th day of April, 2008.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE